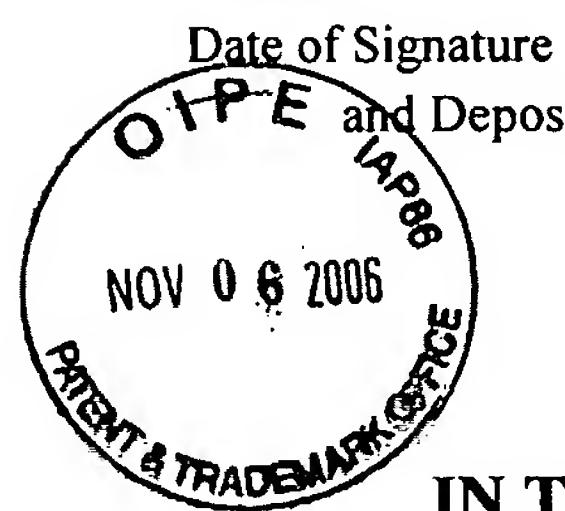
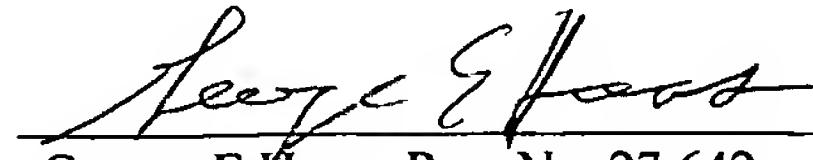


I hereby certify that this correspondence is being deposited with the United States Postal Service on the date set forth below as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



Date of Signature  
and Deposit: October 26, 2006

  
George E. Haas Reg. No. 27,642

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Valery Alexandrovich Kononov, *et al.*

Serial No. 10/562,752

Filed: PCT Filing Date June 8, 2004

For: Gas Monitoring Apparatus

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### PETITION UNDER 37 C.F.R. 1.47(a) TO ACCEPT A PATENT APPLICATION MADE BY OTHER INVENTORS ON BEHALF OF NON-SIGNING INVENTOR

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Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Enclosed is a Declaration for the subject patent application which names Valery Alexandrovich Kononov and Mathys Johannes De Beer as inventors and which has been signed only by Mr. De Beer.

Inventor, Mathys Johannes De Beer, hereby petitions under 37 C.F.R. §1.47(a) to have the above-identified patent application accepted on behalf of himself and the non-signing inventor, Valery Alexandrovich Kononov.

11/09/2006 GFREY1 00000053 170055 10562752

02 FC:1463 200.00 DA

37 C.F.R. §1.47(a) states:

“If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor.”

The facts clearly show that Dr. Kononov refuses to join in this application.

### **Statement of Facts**

The present patent application is a U.S. national phase application of International Application PCT/IB2004/001861 and was filed with an unsigned declaration. That was due to co-inventor Valery Alexandrovich Kononov refusing to sign the required application documents.

The subject invention was jointly made by Valery Alexandrovich Kononov and Mathys Johannes De Beer while Dr. Kononov was employed in South Africa by Schauenburg Flexadux (Pty) Ltd. (hereinafter “Schauenburg”). Under an employment agreement, Dr. Kononov is required to assign all inventions made in the course of that employment to Schauenburg. Dr. Kononov left Schauenburg after making the invention and now refuses to assist his former employer in obtaining a patent.

Enclosed is a statement of Christopher Murray de Villiers, a registered South African Patent Attorney, attesting the attempts to have Dr. Kononov sign the declaration for this patent application. This statement states that the entire patent application with a declaration was sent on July, 10, 2006 to Dr. Kononov for signature. A week later, Dr. Kononov replied in a letter that he would not sign any of the documents because of a dispute with Schauenburg.

Therefore, Dr. Kononov expressly "refuses to join in an application for patent or cannot be found or reached after diligent effort."

**Petitioners' Request**

As a consequence, co-inventor De Beer requests pursuant to 37 C.F.R. §1.47(a) to have this application accepted on behalf of himself and the non-signing inventor, Valery Alexandrovich Kononov.

The \$200.00 fee required under 37 C.F.R. §1.17(g) to consider this petition, the \$130.00 fee for late submission of the Declaration, and any other fees deemed due in this matter should be charged to Deposit Account No. 17-0055.

Respectfully submitted,  
Valery Alexandrovich Kononov, *et al.*

Dated: October 26, 2006

By: George E. Haas  
George E. Haas  
Registration No. 27,642

Quarles & Brady LLP  
411 E. Wisconsin Avenue Suite 2040  
Milwaukee, WI 53202-4497  
Telephone (414) 277-5751

QBMKE\5957700.1



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: Valery Alexandrovich Kononov, et al.

Serial No. 10/562,752

Filed: PCT Filing Date June 8, 2004

For: Gas Monitoring Apparatus

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**STATEMENT OF FACTS REGARDING  
ATTEMPTS TO REACH NON-SIGNING INVENTOR**

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Mail Stop PETITION  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. I, Christopher Murray de Villiers, am a registered South African Patent Attorney, practising with the firm Spoor & Fisher of Pretoria, Johannesburg and Cape Town.
2. My firm has instructed Mr George E Haas, a registered US Patent Attorney (Registration No. 27,642) in this matter, and Mr Haas is the attorney of record in the above identified patent application.
3. I am making this statement in support of a petition pursuant to 37 C.F.R. § 1.47 to accept that patent application made by the other inventor, Mathys Johannes De Beer, on behalf of co-inventor Dr. Valery Alexandrovich Kononov, who has refused to sign the application.
4. At the time that the subject invention was made Dr. Kononov was employed by Schauenburg Flexadux (Pty) Ltd., the applicant of the related PCT International Patent Application. He no longer is employed there.
5. On July 10, 2006, I sent a complete copy of the subject patent application, including the specification, claims and drawings, as well as a declaration and an assignment to Dr. Kononov. I had previously contacted Dr. Kononov by telephone and advised him that I would be forwarding the documents to him by fax. Exhibit A hereto is a copy of the cover letter of that fax.

*cdw*

6. On July 17, 2006, Dr. Kononov replied to the abovementioned letter, and Exhibit B hereto is a copy of his reply.
7. Dr Kononov confirmed receipt of the copy of the application and related documents referred to above, but stated that he would not sign any of the documents as he was involved in a dispute with Schauenburg Flexadux (Pty) Ltd.
8. Dr Kononov's disagreement with Schauenburg Flexadux (Pty) Ltd. is based on an interpretation of his contract of employment, in terms of which he was obliged to assign any invention made in the course of his employment to the assignee company. Dr. Kononov asserts that Schauenburg Flexadux (Pty) Ltd. has repudiated the employment contract and therefore is not entitled to the benefit of the invention. However, I submit that this argument is moot in the light of the following.
9. Notwithstanding the statement in Dr. Kononov's letter, Dr. Kononov executed an assignment of the invention which is a subject of this patent application, at the time of filing of the original South African priority application (South African Patent Application No. 2006/00192 filed July 4, 2003). A copy of the original assignment is attached as Exhibit C hereto.
10. In terms of the assignment, Dr. Kononov assigned all his rights in the invention to Schauenburg Flexadux (Pty) Ltd. and undertook to cooperate in executing any documentation required to file further applications.
11. In the light of the above, it is respectfully submitted that Schauenburg Flexadux (Pty) Ltd. title to the invention made by Dr. Kononov is clear.

Respectfully submitted,

Dated: October 19, 2006

C. de Villiers

Christopher Murray de Villiers  
Spoor and Fisher  
P.O. Box 454  
Building No. 13 Highgrove Office Park  
Oak Avenue  
Centurion, Pretoria, 0001  
South Africa

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QBMKE\5957893.1



APPLICANT'S  
EXHIBIT  
A

VAK Technical Solutions CC  
P O Box 5582  
Weltevreden Park  
1715

Attention: Dr V A Kononov

Your Ref:  
Our Ref: PA135563/US  
Date: 10 July 2006

*Confidential*  
**FACSIMILE TRANSMISSION**  
**From fax no: (+2712) 676 1100**  
**To fax no: +27 11 6792711**  
**Pages (including this page): 34**

Dear Valery

United States of America - Patent Application  
Applicant : Schauenburg Flexadux (Pty) Ltd  
Inventors : Kononov, Valery Alexandrovich; De Beer, Mathys Johannes  
Title : Gas Monitoring Apparatus  
Filing Date : 22 December 2005

I refer to previous correspondence and to our recent telephone conversations in connection with the question of obtaining your signature on the application forms for the abovementioned US patent application.

I attach a copy of the application as filed, as well as a copy of a declaration and a copy of an assignment. The assignment documents the transferral of ownership of your share in the invention from yourself to Schauenburg Flexadux (Proprietary) Limited.

Please sign and return the attached documents where indicated as soon as possible.

I look forward to hearing from you in this regard.

Yours sincerely

Chris de Villiers

Direct Tel: +27 12 676 1033  
E-mail: c.devilliers@spoor.com

*CDW*

FILE COPY



Mr. Chris de Villiers  
Spoor & Fisher

17 July 2006

Dr (Eng) Valery A.Kononov  
P.O.Box 5582  
Weltevreden Park 1715  
Tel/Fax: + 27 11 679 2711  
Mobile: + 27 83 530 1163  
vkononov@vak.co.za

Dear Chris,

**Ref: PA135563/US**

1. I refer to your letter dated 10 July 2006 and to the pack of documents I received from you in connection with Schauenburg's patent application in the United States.
2. In terms of my employment contract, patent rights vest in Schauenburg's Flexadux (Pty) Limited, free of consideration in terms of S13 of the Act.
3. Schauenburg have, however, repudiated my contact of employment (both in regard to remuneration and my procedural rights) and can therefore, in my view, not claim any benefits under the contract they have repudiated.
4. In the circumstances, I regret that I will not be signing any documents and will in fact oppose Schauenburg's application for the patent to the full extent of my rights in law.

Kind regards,

Dr. Valery A. Kononov



## DEED OF ASSIGNMENT OF INVENTION

APPLICANT'S  
EXHIBIT  
C

WHEREAS We,

1. Kononov, Valery Alexandrovich
2. De Beer, Mathys Johannes

of

1. 12 Stamperboom Road Weltevreden Park, Johannesburg, 1709, Gauteng, South Africa
2. 75 Brink Avenue Parkrand, Boksburg, 1459, Gauteng, South Africa

are the Inventors of an invention entitled: Gas Monitoring Apparatus

AND WHEREAS Schauenburg Flexadux (Pty) Ltd

of 145 Tedstone Road, Wadeville, 1407, Gauteng, South Africa

(hereinafter referred to as THE ASSIGNEE) has acquired the invention from us :

NOW THEREFORE:

- (1) We hereby cede and assign the invention to THE ASSIGNEE with the right to apply for patents in respect of the invention in the Republic of South Africa and in any other country in the name of THE ASSIGNEE.
- (2) We hereby undertake to execute all such documents as may be required to file and prosecute patent applications in respect of the invention in any country and to execute all documents and to do all things as may be required by the law of any country to effect transfer of the invention into the name of THE ASSIGNEE, all at the expense of THE ASSIGNEE.

This assignment takes effect prior to the date of filing of the patent application for the invention.

Signature:

Kononov, Valery Alexandrovich

Date:

07/03/2003

Signature:

De Beer, Mathys Johannes

Date:

07/03/2003

**SPOOR & FISHER**

Patent and Trade Mark Attorneys

Ref : PA135563/P

*Clw*